



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/165317

PRELIMINARY RECITALS

Pursuant to a petition filed April 09, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on April 30, 2015, at Waukesha, Wisconsin.

The issue for determination is whether the agency correctly terminated the petitioner's BadgerCare (BC) Plus benefits effective May 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Bonnie Gomez

Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County. The petitioner is a household of one.

2. On March 23, 2015 the petitioner reported in a hand written letter that his income, from wages, has increased by approximately \$300 per week. He went on to state that this earned income varies.
3. The petitioner's monthly gross income is more than \$980.83. The petitioner receives \$960 from social security. The petitioner receives additional earned income, which makes his total monthly gross income more than \$980.83.
4. On March 30, 2015 the agency sent the petitioner a notice stating that effective May 1, 2015 his BadgerCare (BC) Plus benefits would end because he was over the income limit.
5. On April 13, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in April 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$980.83 monthly for a household of one, and \$1,327.50 for a household of two persons in 2014. *Id.*, § 50.1.

In this case the petitioner agrees that his gross income is greater than \$980.83 each month. The petitioner receives \$960 in social security and has additional earned income. The agency calculated the petitioner's earned income to be \$300 per week for a total monthly earned income amount of \$1200. This is based upon the petitioner's written statement from March 23, 2015. At the hearing the petitioner stated that he only earns \$100 per week in gross earned income. He further acknowledged that his hours varied. The exact amount of earned income is unclear. However, at a minimum the petitioner earns an additional \$400 per month in earned income. This amount plus the \$960 from social security puts the petitioner over the income limit for the BC Plus program. This makes him ineligible for the BC Plus program.

CONCLUSIONS OF LAW

The agency correctly terminated the petitioner's BC Plus benefits effective May 1, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN

INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of April, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 30, 2015.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability